

EXHIBIT E

VCCS 3.13.0 Dispute Resolution Principles

1. This policy applies to Teaching and Administrative/Professional faculty.
2. Adjunct faculty may access the procedure through the mediation step (Step 2).
3. Some of the principles that govern these matters are that most issues can be resolved quickly, informally, and at the lowest level of the organization if proper protocols are followed.
4. The information in this policy empowers faculty with the proper information and guidance to advance a concern in a healthy manner that is designed to address and resolve workplace concerns quickly and effectively. It also allows for a subsequent review of matters that are not immediately resolved.
5. The intent of the policy is to address faculty concerns as quickly as possible.
 - a. Faculty must initiate the informal resolutions process within thirty (30) calendar days of the date of the occurrence, whether or not the concern rises to the level of a grievance.
 - b. Failure to promptly initiate the appropriate procedure under this Policy could result in the loss of relevant evidence and witnesses that could inhibit appropriate resolution.

3.13.1 Informal Mediation and Formal Procedures

It is expected that most workplace concerns will be resolved informally. When informal procedures are followed but issues remain unresolved, mediation procedures will typically address these atypical matters. After informal procedures are followed and exhausted, the remaining concerns may proceed through a voluntary mediation process or to a formal grievance. Employees are highly encouraged to participate in the voluntary mediation process.

3.13.1.0 To this end, the VCCS has established the following Alternative Dispute Resolution (ADR) Procedure:

- Step 1 – Informal Concerns Procedure
- Step 2 – Voluntary DHRM Mediation Process
- Step 3 – Formal Grievance Process

1. All complaints, except for non-reappointment or dismissal, must proceed through Step 1 with the option of going through Step 2 – Voluntary DHRM Mediation or proceeding on to Step 3 – Formal Grievance Process if the basis of the complaint qualifies for Step 3.
2. For non-reappointment or dismissals, immediately proceed with Step 3, if eligible to do so.

3.13.2 Step 1 – Informal Concerns Procedure

Most workplace concerns are resolved through open and effective communication and utilizing an open-door policy. Most workplace concerns are the result of lack of information, lack of communications, or inadvertent oversights.

1. When a faculty member has a dispute with a co-worker, it is usually best first to communicate and share concerns directly with that individual.

2. If the issue is unresolved, the employee should bring the matter to the attention of the supervisor/dean or the supervisor/dean of the other party. Likewise, if there is a concern about an organizational policy or practice, the faculty member should bring the matter to the attention of the immediate supervisor/dean.
3. If the supervisor/dean(s) involved are unable to resolve the matter, the matter should be brought to the attention of the next level leader. These actions must be completed before taking the matter to the mediation step.
4. Informal Concerns Procedures conclude at the level of the vice president/executive. It is an appropriate protocol to inform the supervisor/dean or other official that one disagrees with the resolution of a matter before taking the matter to the next level.
5. In the event that the vice president/executive has a conflict, the president may assign another vice president/executive to hear the matter.
6. Although it is advised that a faculty member first start with the faculty member's supervisor, there is no restriction on a faculty member speaking directly to the appropriate official whose duties and responsibilities include the area that forms the basis for the complaint and who can aid in resolving the complaint; for example, meeting with human resources about a pay issue, meeting with the facilities director about a parking issue or asking a vice president about an academic policy.
 - a. An open-door policy means that specific matters that are under the purview of a particular official can and should be brought to the attention of that official without regard to one's position, level, or reporting location in the organizational structure.
 - b. The official involved may refer the faculty member involved to a workplace policy, protocol, or procedure as a means of addressing the matter.
 - c. If the official can advise the faculty member that there is an established protocol designed to address the type of concern in question, the faculty member is obligated to follow the established protocol or procedure.
7. If the matter is related to harassment or discrimination, that matter will be investigated and addressed in accordance with federal and state law and applicable state policies.

3.13.3 Step 2 – DHRM Voluntary Mediation Process

When informal procedures have been followed and have not resolved the matter at hand, the next step can be taken to address a workplace concern. This step is the Department of Human Resources Management's (DHRM) Voluntary Mediation Process.

1. Mediation is a confidential and voluntary process by which participants, with the assistance of mediators, share perspectives, identify disputed issues, develop options, consider possible solutions, and seek to reach a mutually acceptable resolution to their dispute. Participants in mediation make informed and deliberate decisions to resolve past problems and discuss future relationships directly. Employees are highly encouraged to utilize the DHRM Mediation process.

- a. To access the Mediation process, the employee should contact their Agency Workplace Mediation Coordinator, in most cases, Human Resources.
- b. See <https://www.dhrm.virginia.gov/employment-dispute-resolution/mediation-services> for more information.
- c. Information is confidential and will not be shared with the college/agency unless the parties agree.
- d. Concerns must be submitted for mediation within thirty (30) days of the matter not being resolved at the informal procedures step.

3.13.4 Step 3 – Formal Grievance

A formal grievance is a last resort resolution of workplace concerns that have not been resolved through informal or mediation methods.

1. Grievances are restricted to serious unresolved workplace concerns involving adverse personnel actions that materially affect a full-time teaching or administrative/professional faculty member's employment.
2. Matters eligible for the formal grievance process include overall performance evaluations, multi-year appointment determinations, promotion, disciplinary suspension, non-reappointment, dismissal, and academic freedom.
3. Decisions regarding the selection of interim appointments are not eligible for the formal grievance process.
4. Per current DHRM and VCCS policy, all complaints of retaliation, whistleblowing, and discrimination will be investigated.

Important Note: *Except for in the cases of non-reappointment or dismissal, to be eligible for the Formal Grievance Process, employees must first exhaust step 1 of the Alternative Dispute Resolution procedures.*

3.13.4.0 – Part 1 – Filing a Written Grievance

A. The first step of the formal grievance process is filing a written grievance with the appropriate executive within fifteen (15) business days of the conclusion of the informal process or voluntary mediation or from the date of the non-reappointment or dismissal.

1. If applicable, the grievance must include a summary of the informal complaint procedures followed, a concise explanation of the basis for the grievance, and the remedy(ies) requested.

B. The executive shall review the grievance file and will have ten (10) business days to respond to the parties to notify them of the next steps in the process, whether those steps are meetings, a fact-finding, or other appropriate actions.

1. Both parties will have the opportunity to present additional information they feel is relevant to the grievance. This process is not an evidentiary hearing.
2. Unless there is good cause for a delay, the executive should provide a written response to the party(ies) of the grievance within 30 calendar days of receipt of the grievance.
3. Either party shall notify the other party of any unforeseen delays in writing, as soon as possible. The decision shall include findings of facts and the rationale for the decision.

3.13.4.1 – Part 2 – Appellant Process

A. The second and final step of the Formal Grievance Process is an appellant process. Either party may request a review by an ad hoc grievance panel or the college president.

B. The requesting party must include a summary of the prior proceedings, a concise explanation of the basis for the appeal, and the remedy(ies) requested.

C. If selected, the role and function of the grievance panel is to determine whether the challenged action is within policy and the authority of the person taking the action.

1. Panels may not exceed the scope of the purpose for which the panel was established.

2. The ad hoc panel will review the record, read and review statements from the grievant and college representative(s), review the policies and procedures of the institution, and deliberate as appropriate.

3. The panel will provide a written report of the findings of fact, rationale for its determination(s), and a recommendation to the President.

4. The President may accept or reject the recommendation of the ad hoc panel. If the President rejects the recommendation(s), then the President must provide a written basis for rejecting the panel's recommendation(s).

D. If a panel is not selected, the President must follow the same procedures as set forth above in terms of scope, review of the information, and deliberation, and then must issue a written report of the findings of fact, rationale for the President's determinations and the President's decision. The disposition determined by the college president (whether upon the recommendation of an ad hoc panel or not) is deemed the final adjudication of the matter at hand.

E. The written request for an ad hoc panel or presidential review must be made within ten (10) business days of receiving the executive's ruling in Part 1.

1. The president will have fifteen (15) business days to convene the ad hoc panel once the ad hoc grievance panel has met.

2. The ad hoc panel will have ten (10) business days to make a recommendation to the president.

3. The president will have up to ten (10) business days to provide a written determination of the appeal to the party(ies) involved.

F. If the president is selected to review the matter, he/she will have fifteen (15) business days to provide a written determination of the decision.

G. An attempt will be made to complete the grievance process at Part 2 within 30 business days, unless good cause exists to delay.

3.13.4.2 – Appeal for Discretionary Review

A. In all alternate dispute resolution and grievance procedures, the determination of the college president is final.

B. In exceptional circumstances, a faculty member may appeal to the Chancellor, through the Associate Vice Chancellor for Human Resources, for an additional discretionary review.

1. A discretionary review is not automatic, and the Chancellor's Office can choose to either review the matter or allow the college president's action to stand.

2. To petition the Chancellor, the appellant must file a written request within twenty (20) calendar days of receipt of the final decision by the president.

a. The written request must include a summary of prior findings through the informal and grievance processes, a concise explanation of the basis for the petition for further review, justification of the exceptional nature of the request, and the remedy(ies) requested.

b. If a discretionary review is granted, the Chancellor or designee shall communicate the process and timeline for reviewing that matter to the parties involved.

3.13.4.3 Discrimination

This policy does not apply to equal opportunity or legal considerations such as discrimination, retaliation, harassment, or whistleblowing. In accordance with DHRM and VCCS policies, such complaints will be investigated and addressed in accordance with all relevant policies and laws.

3.13.5 Other Policy Considerations

1. *Executive* – The appropriate vice president, provost, or vice chancellor.

2. *Administrative Process* – All of the elements of the alternate dispute resolution and grievance policy and procedures are administrative processes; they are not legal processes. Therefore, attorneys are not allowed to participate at any level of the process.

3. *No Retaliation* – Nothing should infringe upon a faculty member's ability to express a concern, complaint, or grievance and no action should be taken against a faculty member for pursuing a redress of the faculty member's concerns. This ability is protected by policy and in many cases, by law.

4. *Privacy and Confidentiality* – There is an expectation of privacy and confidentiality in the handling of all personnel matters and all communication should be treated as such. The parties involved in a concern, complaint, or grievance should make every effort to abide by the spirit and intent of the privacy and confidentiality of the process and all who are involved.

5. *Ad Hoc Grievance Panel Composition* – Ad Hoc Grievance panels are usually five randomly assigned members and should have a composition that reflects the complainant. If a teaching faculty member is the complainant, there should be three teaching faculty members and two administrative or professional faculty members; if an administrative or professional faculty member is the complainant, there should be three members of that group on a five-member panel.

6. *Associate Vice-Chancellor* – The interpretation and administration of the process and procedures governing the Alternative Dispute Resolution and Grievance policy rests solely with the Associate Vice Chancellor of the VCCS System Human Resources office.

7. *President or Vice President/Executive Parties to a Dispute* – When a vice president/executive is a party to a formal grievance, the matter can start with Part 2 of the Formal Grievance Process upon completion of the informal process. When the president is party to a matter – such as a complaint from a direct report – the matter can

be forwarded to the Chancellor's Office by the college's chief human resources officer on behalf of the complainant.